

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

CHIEF HEARING OFFICER DIRECTIVE

DOCKET NO. 2021-276-C ORDER NO. 2021-122-H

SEPTEMBER 16, 2021

CHIEF HEARING OFFICER: David Butler

DOCKET DESCRIPTION:

Application of ExteNet Asset Entity, LLC for a Certificate of Public Convenience and Necessity to Provide Competing Local Exchange, Exchange Access and Interexchange Telecommunications Services in the State of South Carolina and for Alternative and Flexible Regulation

MATTER UNDER CONSIDERATION:

Motion for Confidential Treatment

CHIEF HEARING OFFICER'S ACTION:

This matter comes before the Chief Hearing Officer on the Motion of ExteNet Asset Entity, LLC ("the Company" or "the Applicant") for Confidential Treatment of certain financial information submitted in support the Company's Application for a Certificate of Public Convenience and Necessity.

The Company asserts that the Application requires Applicant to disclose evidence of its financial ability to provide service by submitting documentation of its financial resources. Pursuant to this requirement, Applicant is submitting financial statements. According to the Company, this information contains highly confidential and strictly proprietary information, the public disclosure of which would result in direct, immediate and substantial harm to Applicant's competitive position in South Carolina and in other states where Applicant is currently doing business.

The Applicant argues that the financial information submitted by Applicant in Exhibit D of its Application fits squarely within the definition of a "trade secret" under the South Carolina Trade Secrets Act, and that, moreover, the information contained in Exhibit D qualifies as "trade secret" exempt from disclosure pursuant to S.C. Code Ann. § 30-4-40(a)(1) of the South Carolina Freedom of Information Act. As a privately-held company, Applicant believes that its financial qualifications are not readily ascertainable. Applicant asserts that it currently has no legal obligation to prepare or submit projected financial statements, or to report any financial information to a public entity. Further, the unavailability of the financial information submitted by Applicant in Exhibit D of its Application fits squarely within the definition of a "trade secret" under the South Carolina Trade Secrets Act. Moreover, the Company argues that the information contained in

Exhibit D qualifies as “trade secret” exempt from disclosure pursuant to S.C. Code Ann. § 30-4-40(a)(1) of the South Carolina Freedom of Information Act. As a privately-held company, Applicant’s financial qualifications are not readily ascertainable. Applicant notes that it currently has no legal obligation to prepare or submit projected financial statements, or to report any financial information to a public entity. Further, in the view of the Company, the unavailability of this information derives independent economic value for the Applicant, because the disclosure of such information would harm its ability to compete in the provision of telecommunications services in South Carolina. Applicant notes that it is not a public entity and its financial and business information is uniquely sensitive.

In its filing, the Company explains that it takes considerable efforts to maintain the secrecy of the information contained in its financial statements, and this information is not publicly disseminated. Applicant clarifies that its request for protection applies only to the financial information contained in Exhibit D to the Application. Applicant notes that it is not seeking protection of any type by means of this Motion for those reports it will be required to file with the Office of Regulatory Staff (“ORS”) should the relief sought in the Application be granted: the Annual Report From, Gross Receipts Report, or the Universal Service Fund Worksheet.

Whereas this Chief Hearing Officer is not convinced that the information at issue fits squarely within the “trade secret” definition, there is no opposition to the Motion. Accordingly, confidentiality of the described financial information is granted. However, the granting of this motion does not prohibit any party from petitioning the Commission, or court having jurisdiction, to later open and unseal the financial information herein declared confidential. This ends the Chief Hearing Officer’s Directive.